

4. How clear is the Act's definition of what is and what is not a change or suppression practice? If further clarity is needed, what forms of clarification would be most helpful?

The Change or Suppression (Conversion) Practices Prohibition Act 2021's definition of change or suppression practices defaults to an affirmation-only approach, which raises concerns about the potential restriction of therapeutic options for individuals seeking help. This provision is problematic as it does not clearly protect exploratory or Socratic questioning, including exploring alternative possibilities such as same-sex attraction or ruling out other diagnoses like autism spectrum disorder, which are essential components of a thorough therapeutic assessment. A genuinely neutral law would not privilege one clinical approach over another, yet the Act's carve-out for practices that encourage or promote gender transition explicitly protects affirmation while leaving non-affirmation exposed to liability.

5. How clear is the exclusion for health service providers? If further clarity is needed, how could this best be achieved?

The Change or Suppression (Conversion) Practices Prohibition Act 2021 creates uncertainty for practitioners who hold non-affirming clinical views, as they cannot be confident that their ordinary professional practice is protected, even where it is evidence-based and conducted with informed consent. The necessity exemption in the Act is problematic, as it imposes a higher threshold for non-affirming interventions than for affirming ones, unlike the equivalent provision in NSW, which undermines the principle of parity. This provision must be revised to allow for reasonable professional judgment, including minority or dissenting clinical approaches, given the contested evidence base in this area.

6. Is greater clarity needed about how people of faith can hold and express their beliefs to support clear understanding and compliance with the Act? What forms of clarification would be most helpful?

A person seeking guidance from a pastor or faith-based counsellor on matters of sexuality or gender identity may freely request such support, yet the Act would still render the provider of that support liable for potential breaches. This is an extraordinary intrusion into both religious freedom and individual autonomy, as it undermines the right to seek and provide counsel in accordance with one's deeply held beliefs.

7. How effective are VEOHRC's awareness and education materials on change or suppression practices? What improvements, if any, could help strengthen community understanding and compliance?

The consultation materials provided by the Victorian Law Reform Commission fail to provide a neutral description of the Change or Suppression (Conversion) Practices Prohibition Act 2021, instead advocating for an expansive interpretation of the law that goes beyond its legislative requirements. By characterising ordinary conversations, pastoral care, and clinical practice as potential conversion practices, the materials have a chilling effect on Victorians, deterring them from engaging in lawful speech and activity. This approach undermines the legitimacy of the consultation

process, which should aim to provide a balanced and evidence-based examination of the Act's provisions.

9. Are there changes that could help support VEOHRC to carry out its functions or improve the effectiveness of the civil response scheme? If so, please describe any changes.

The Victorian Equal Opportunity and Human Rights Commission's development of materials under the Change or Suppression (Conversion) Practices Prohibition Act 2021 should be grounded in current best-evidence guidance, and as such, any materials that do not meet this standard should not be permitted to stand as authoritative guidance under the Act, with the Commission required to consider the findings of the Cass Review and other up-to-date systematic reviews of the evidence on gender-affirming care.

13. Should a civil cause of action be introduced under the Act? What distinct purpose would it serve compared to existing pathways?

The Change or Suppression (Conversion) Practices Prohibition Act 2021 is not a neutral law, as it takes a clear stance in a contested clinical debate, effectively picking winners and losers. The definition of prohibited conduct is concerning, as it only exposes one side of the debate to liability, while the other side is shielded from scrutiny. This creates an uneven playing field, where therapists who support same-sex attracted clients in exploring their identity without presuming a transgender outcome may face civil claims, while those who affirm gender transition are not held to the same standard.